

Message Text

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TAGS: SHUM, UY

SUBJECT: HUMAN RIGHTS REPORT ON URUGUAY

1. AS EMBASSY IS AWARE, UNCLASSIFIED HUMAN RIGHTS REPORTS ON INDIVIDUAL COUNTRIES WILL ACCOMPANY THE CONGRESSIONAL PRESENTATION DOCUMENT WHEN IT GOES TO THE HILL SOMETIME EARLY NEXT YEAR. THE EXACT DATE WILL BE DETERMINED BY THE NEW ADMINISTRATION. PRESENT SCHEDULE CALL FOR PRINTING OF THE REPORTS ON JANUARY 15.

2. TEXT OF AGREED ARA PAPER ON URUGUAY IS TRANSMITTED FOR EMBASSY INFORMATION AND ANY COMMENTS. EMBASSY COMMENTS SHOULD BE SLUGGED FOR COUNTRY DESK OFFICER GRAHAM.

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3. BEGIN TEXT:
I. POLITICAL SITUATION

URUGUAY, LONG CONSIDERED A POLITICAL AND SOCIAL DEMOCRACY, ENCOUNTERED GROWING ECONOMIC AND SOCIAL WELFARE DIFFICULTIES DURING THE 1950'S AND 1960'S. THE MOST EXTREME REACTION TO THIS WAS THE TUPAMARO URBAN GUERRILLA MOVEMENT. IN 1972, AFTER A PROLONGED PERIOD OF INTERNAL TURMOIL AND GROWING TERRORIST ACTIVITY,

A STATE OF INTERNAL WAR WAS APPROVED BY THE CONGRESS AT THE EXECUTIVE BRANCH'S REQUEST. UNDER IT, CIVIL RIGHTS WERE RESTRICTED. THE EXECUTIVE AND MILITARY DISMISSED CONGRESS, APPOINTED A COUNCIL OF STATE IN ITS PLACE, ISSUED A NATIONAL SECURITY LAW, AND INCREASED THE MILITARY'S PARTICIPATION IN GOVERNMENT. ON JUNE 12, 1976, PRESIDENT JUAN MARIA BORDABERRY WAS REMOVED FROM OFFICE IN A QUIET COUP BY THE ARMED FORCES. MR. APARICIO MENDEZ WAS SWORN IN AS PRESIDENT FOR A FIVE YEAR TERM ON SEPTEMBER 1, 1976.

II. LEGAL SITUATION

THE URUGUAYAN CONSTITUTION OF 1967 PROVIDES GUARANTEES FOR A WIDE RANGE OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS THESE GUARANTEES WERE SUSPENDED IN 1972 FOR THOSE PERSONS SUSPECTED OF SUBVERSION.

THE COUNCIL OF STATE ASSUMED THE LEGISLATIVE FUNCTION IN DECEMBER 1973. THE COUNCIL GAVE ITS APPROVAL TO THE EXECUTIVE DECREES WHICH HAD DISSOLVED THE COMMUNIST-LED LABOR CENTRAL, OUTLAWED THE COMMUNIST PARTY AND A NUMBER OF OTHER MARXIST, EXTREMIST AND LEFTIST GROUPS, PROVIDED FOR THE CONFISCATION OR TEMPORARY ATTACHMENT OF PROPERTY USED TO CARRY OUT CRIMES AGAINST THE NATION, AND EXTENDED THE LIMITED OFFICIAL USE
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JURISDICTION OF MILITARY COURTS TO COVER THE TRIAL AND SENTENCING OF PERSONS ACCUSED OF TERRORISM, SUBVERSION AND OTHER CRIMES AGAINST THE NATION. A STATE OF DANGER LAW HAS RECENTLY BEEN PROPOSED TO PERMIT CIVILIAN COURTS TO TAKE JURISDICTION IN CERTAIN CASES WHICH NOW ARE TAKEN UP ONLY UNDER THE EMERGENCY SECURITY LAWS.

III. OBSERVANCE OF INTERNATIONALLY RECOGNIZED HUMAN RIGHTS

A. INTEGRITY OF THE PERSON

ARTICLE 3: THE URUGUAYAN CONSTITUTION GUARANTEED THE INVIOABILITY OF LIFE, LIBERTY AND SECURITY OF PERSONS AND ABOLISHED THE DEATH PENALTY. ABUSES IN THIS AREA HAVE ARISEN AS A RESULT OF ARRESTS BASED UPON AUTHORITY DERIVED FROM NATIONAL SECURITY LAWS AND DECREES.

ARTICLE 5: TORTURE AND OTHER FORMS OF CRUEL, INHUMANE AND DEGRADING TREATMENT OR PUNISHMENT ARE PROHIBITED BY THE CONSTITUTION. EXCESSES IN THE EARLY STAGES OF DETENTION WERE WIDESPREAD AT THE HEIGHT OF THE ANTI-TUPAMARO ACTIVITY ABUSES STILL OCCUR. THERE HAVE BEEN REPORTS THAT SECURITY

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FORCES HAVE ENGAGED IN ARBITRARY KILLINGS. SENIOR GOVERNMENT OFFICIALS STATE THAT SUCH ABUSES ARE CONTRARY TO OFFICIAL POLICY AND ARE NOT ENCOURAGED OR CONDONED. URUGUAYAN OFFICIALS STATE THAT INQUIRIES HAVE BEEN MADE INTO ALLEGATIONS OF ABUSE, AND THAT DISCIPLINARY ACTION HAS BEEN TAKEN AGAINST THOSE FOUND RESPONSIBLE; THERE IS NO INDEPENDENT CORROBORATION OF THIS.

ARTICLE 8: URUGUAYANS MAY TURN TO THE COURTS FOR RELIEF IN NON-SECURITY CASES. IT IS MORE DIFFICULT TO OBTAIN

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RELIEF IN SECURITY CASES. A COMMITTEE OF THE COUNCIL OF STATE HAS RESPONSIBILITY TO INVESTIGATE REPORTS OF HUMAN RIGHTS VIOLATIONS WHICH OCCUR IN SECURITY CASES UNDER MILITARY JURISDICTION.

ARTICLE 9: URUGUAYANS ACCUSED OF CIVIL AND CRIMINAL VIOLATIONS UNRELATED TO SECURITY MATTERS STILL ENJOY CONSTITUTIONAL GUARANTEES AGAINST ARBITRARY ARREST AND DETENTION. THE GUARANTEES OF INVIOABILITY OF PERSONS FROM ARREST EXCEPT FOR PROBABLE CAUSE, HABEAS CORPUS AND SPEEDY ARRAIGNMENT HAVE BEEN SUSPENDED FOR PERSONS SUSPECTED OF TERRORISM, SUBVERSION AND OTHER CRIMES AGAINST THE NATION.

AN INTENSIFIED CAMPAIGN AGAINST COMMUNIST PARTY MEMBERS AND OTHERS IN LATE 1975 AND EARLY 1976 LED TO NUMEROUS ARRESTS. SOME PERSONS HAVE SOUGHT ASYLUM IN FOREIGN EMBASSIES, AND SOME OF THESE ASYLEES HAVE BEEN PERMITTED TO GO INTO EXILE. THE RIGHT OF VOLUNTARY EXILE UNDER ARTICLE 168 (17) OF THE CONSTITUTION HAS ALSO BEEN GRANTED TO SOME PERSONS ARRESTED UNDER SECURITY MEASURES.

ARTICLE 10: NATIONAL SECURITY CASES ARE SUBJECT TO THE MILITARY COURT SYSTEM FOR PRE-TRIAL INVESTIGATIONS, ARRAIGNMENT, TRIAL AND SENTENCING. PRISONERS ACCUSED OF SUBVERSIVE ACTIVITIES OFTEN ARE NOT IMMEDIATELY INFORMED OF THE CHARGES AGAINST THEM. LENGTHY DELAY BEFORE TRIAL IS A FREQUENT OCCURENCE.

ARTICLE 11: TRADITIONAL LEGAL GUARANTEES REMAIN VALID AND OPERATIVE FOR THE VAST MAJORITY OF URUGUAYANS. HOWEVER, IN CASES INVOLVING URUGUAYANS ACCUSED OF TERRORISM, SUBVERSION, AND OF OTHER CRIMES AGAINST THE NATION, THE ROLE OF LAWYERS HAS BEEN CIRCUMSCRIBED. THE PRE-TRIAL INVESTIGATION, ARRAIGNMENT, TRIAL AND SENTENCING HAS BEEN TURNED OVER TO THE MILITARY COURT SYSTEM. IF PRE-TRIAL PROCEEDINGS LAWYERS ARE NOT PERMITTED ACCESS TO THEIR CLIENTS IN

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CASES UNDER MILITARY JURISDICTION. LAWYERS ARE PERMITTED ACCESS AT LATER STAGES OF THE MILITARY JUDICIAL PROCESS

WHERE WITNESSES CAN BE CALLED AND THERE IS THE RIGHT OF APPEAL.

THE PRE-TRIAL INVESTIGATION IS A PARTICULARLY IMPORTANT

STAGE OF THE JUDICIAL PROCESS AND THE JUDGE WHO HANDLES THE

PRELIMINARY INVESTIGATION PLAYS AN IMPORTANT ROLE. THE MILITARY JUDGES WHO HANDLE THE PRELIMINARY JUDICIAL PROCESSING OF PERSONS ACCUSED OF "CRIMES AGAINST THE NATION" ARE NOT, BY AND LARGE, TRAINED LAWYERS.

IN NOVEMBER 1976 THE GOVERNMENT OF URUGUAY ANNOUNCED THAT JUST OVER 1800 PERSONS WERE STILL DETAINED FOR CRIMES AGAINST THE STATE. THIS FIGURE IS SIGNIFICANTLY LESS THAN ESTIMATES BY OTHER SOURCES, SUCH AS AMNESTY INTERNATIONAL.

B. OTHER FREEDOMS

URUGUAY IS LARGELY FREE FROM DISCRIMINATION BASED ON RACE, RELIGION AND SEX. IN GENERAL, URUGUAYANS ARE FREE TO MOVE WITHIN THE COUNTRY AND TO GO ABROAD, BUT SOME LIMITATIONS MAY BE IMPOSED ON MOVEMENT ON NATIONAL SECURITY GROUNDS.

URUGUAYANS HAVE THE RIGHT TO OWN PROPERTY BUT THE GOVERNMENT CAN TEMPORARILY EMBARGO PROPERTY OF PERSONS ACCUSED OF CRIMES AGAINST THE NATION. PROPERTY ACTUALLY USED OR INTENDED FOR USE IN SUCH CRIMES CAN BE CONFISCATED OUTRIGHT.

THE CONSTITUTIONAL GUARANTEE OF FREEDOM OF RELIGION IS RESPECTED IN URUGUAY. FREEDOM OF EXPRESSION IS RESTRICTED.

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THE MEDIA OPERATES UNDER A SYSTEM OF SELF-CENSORSHIP WITHIN GUIDELINES ESTABLISHED BY THE AUTHORITIES ALTHOUGH IT IS NEITHER CONSISTENT NOR COMPLETE, BUT IS APPLIED CONSISTENTLY BY GOVERNMENT DIRECTION TO EXPRESSION OF MARXIST OR EXTREMIST PHILOSOPHIES. THE RIGHT OF ASSEMBLY IS RESTRICTED.

IV. OTHER HUMAN RIGHTS REPORTING

IN 1974 THE SECRETARY GENERAL OF THE INTERNATIONAL

COMMISSION OF JURISTS (ICJ) ALONG WITH AN AMNESTY INTERNATIONAL RESEARCH OFFICER VISITED URUGUAY. IN JUNE OF THAT YEAR, THE ICJ AND AMNESTY ISSUED A REPORT SUMMARIZING THE PROCEDURES USED IN THE DETENTION OF SUSPECTS UNDER THE

URUGUAYAN LAW OF STATE SECURITY AND INTERNAL ORDER, AND CHARGING MISTREATMENT. TWO SUPPLEMENTARY ICJ REPORTS CHARGED THAT THE HUMAN RIGHTS SITUATION HAD DETERIORATED. THE ICJ'S JUNE 1976 REVIEW DESCRIBED THE SITUATION AS "VERY GRAVE".

AMNESTY INTERNATIONAL'S ANNUAL REPORT 1974-75 CLAIMED THAT THE URUGUAYAN GOVERNMENT'S "ATTEMPTS TO EXTEND SEVERE POLITICAL CONTROL OVER ALL ASPECTS OF SOCIETY HAS INCREASED THE IMPRISONMENT OF PEACEFUL DISSENTERS AND, CONSEQUENTLY, CREATED A LARGE NUMBER OF PRISONERS OF CONSCIENCE". THE REPORT ALSO CHARGED THAT "TORTURE HAS BECOME ROUTINE PRACTICE" FOR PRISONERS IN MILITARY BARRACKS. IN FEBRUARY 1976 AMNESTY LAUNCHED A WORLDWIDE CAMPAIGN AGAINST TORTURE IN URUGUAY. THE AMNESTY INTERNATIONAL REPORT 1975-76 ESTIMATED THE NUMBER OF POLITICAL PRISONERS IN THE COUNTRY AT ABOUT 5,000. THE REPORT ASSERTED THAT "THE USE OF TORTURE HAS BECOME ROUTINE IN NEARLY ALL CASES OF POLITICAL IMPRISONMENT.". THE REPORT ALSO REFERRED TO HARASSMENT OF URUGUAYAN POLITICAL REFUGEES IN ARGENTINA, AND TO THE MAY 1976 MURDER OF FOUR URUGUAYANS THERE.

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THE 1975 ANNUAL REPORT OF THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS, PUBLISHED IN JUNE 1976, LISTS 22 COMPLAINTS COVERING AT LEAST 290 INDIVIDUAL CASES IN URUGUAY. ALMOST ALL OF THESE ARE COMPLAINTS OF MISTREATMENT OF PRISONERS AND/OR ARBITRARY OR PROLONGED DETENTION BETWEEN 1972 AND 1975.

FREEDOM HOUSE LISTS URUGUAY AS 'PARTLY FREE'.

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